

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 382

AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 7.1-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.5. Certification of Alcohol Server Training Programs

Sec. 1. As used in this chapter, "alcohol server" means the following:

(1) A person who works on the licensed premises of a retailer permittee as a:

- (A) manager;
- (B) bartender; or
- (C) waiter or a waitress.

(2) A person who works on the licensed premises of a dealer permittee as a:

- (A) manager; or
- (B) sales clerk.

Sec. 2. As used in this chapter, "dealer permittee" means a person who holds a liquor dealer permit under IC 7.1-3-10 for a package liquor store.

Sec. 3. As used in this chapter, "program" refers to a program designed to educate an alcohol server on the:

- (1) selling;



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(2) serving; and
 (3) consumption;
 of alcoholic beverages.

Sec. 4. As used in this chapter, "retailer permittee" means a person who holds a:

- (1) beer retailer's permit under IC 7.1-3-4;
- (2) liquor retailer's permit under IC 7.1-3-9; or
- (3) wine retailer's permit under IC 7.1-3-14.

Sec. 5. (a) The commission shall adopt rules under IC 4-22-2 to establish:

- (1) an application form;
- (2) standards; and
- (3) fees;

for certification of a program under this chapter.

(b) The commission shall adopt rules under IC 4-22-2 to otherwise carry out this chapter.

Sec. 6. The commission shall require the following standards for certification of a program under this chapter:

- (1) Training by an instructor who has knowledge in the subject areas described in this section.
- (2) Information on specific subject areas as required by the commission.
- (3) A minimum of at least two (2) hours of training to complete the program.
- (4) Information on:
 - (A) state laws and rules regarding the sale and service of alcoholic beverages;
 - (B) the classification of alcohol as a depressant and the effect of alcohol on the human body, particularly on the ability to drive a motor vehicle;
 - (C) the effects of alcohol:
 - (i) when taken with commonly used prescription and nonprescription drugs; and
 - (ii) on human behavior;
 - (D) methods of:
 - (i) identifying and refusing to serve or sell alcoholic beverages to an underage or intoxicated person; and
 - (ii) handling situations involving an underage or intoxicated person;
 - (E) methods for properly and effectively:
 - (i) checking the identification of an individual;
 - (ii) identifying an illegal identification of an individual;

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and

(iii) handling situations involving individuals who have provided illegal identification;

(F) security and law enforcement issues regarding the sale and service of alcoholic beverages; and

(G) recognizing certain behavior to assess the amount of alcohol an individual:

(i) has consumed; and

(ii) may safely consume.

(5) One (1) or both of the following:

(A) A written test.

(B) An oral test.

Sec. 7. The commission shall issue a certificate to an applicant who:

(1) files the application and pays the fees established by the commission under section 5 of this chapter;

(2) meets the:

(A) requirements under this chapter; and

(B) rules adopted by the commission;

(3) is a:

(A) nonprofit corporation or organization; or

(B) for-profit corporation or organization that does not have an interest in a permit issued to a primary source of supply, a wholesaler, a retailer permittee, or a dealer permittee under this chapter; and

(4) does not hold a permit under this article.

Sec. 8. (a) A certificate issued under this chapter expires at a time and date designated by the commission.

(b) The commission shall adopt rules to establish:

(1) an application form; and

(2) fees;

for the renewal of a certificate under this chapter.

(c) The commission shall send written notice of the upcoming expiration of a certificate to each certificate holder at least sixty (60) days before the expiration of the certificate. The notice must inform the certificate holder of the need to renew and the requirement of payment of the renewal fee. If notice of expiration is not sent by the commission, the certificate holder is not subject to a sanction for failure to renew if, once notice is received from the commission, the certificate is renewed within forty-five (45) days after the receipt of the notice.

Sec. 9. To renew a certificate under this chapter, the certificate

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holder must:

- (1) file the renewal application established and provided by the commission; and
- (2) pay the renewal fee in the amount established by the commission;

not later than the expiration date of the certificate.

Sec. 10. (a) The commission may:

- (1) refuse to issue, renew, or restore a certificate issued under this chapter; or
- (2) suspend or revoke a certificate issued under this chapter; if the board determines that the applicant or certificate holder has not complied with this chapter.

(b) The commission may fine a certificate holder for the violation of a:

- (1) provision of this chapter; or
- (2) rule adopted by the commission under this chapter.

The commission may fine a certificate holder for each day the violation continues if the violation is of a continuing nature.

Sec. 11. (a) If a person violates this chapter, the attorney general, the commission, or the prosecuting attorney of the county in which the person violates this chapter may maintain an action in the name of the state to enjoin the person from continuing in violation of this chapter.

(b) A person who is enjoined and who violates the injunction shall be punished for contempt of court.

Sec. 12. A person who operates a program without a certificate under this chapter commits a Class B infraction.

Sec. 13. (a) A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

- (1) ensure that each alcohol server completes a program certified under this chapter not later than ninety (90) days after the date the alcohol server begins employment at the establishment;
- (2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the program subject areas described in section 6 of this chapter, as required by the commission; and
- (3) maintain training verification records of each alcohol server.

(b) A retailer permittee or dealer permittee must complete a program certified under this chapter not later than ninety (90)

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days after the date:

- (1) the dealer permittee is issued a permit described in section 2 of this chapter; or
- (2) the retailer permittee is issued a permit described in section 4 of this chapter.

(c) The commission may suspend or revoke a retailer permittee's or dealer permittee's permit or fine a retailer permittee or dealer permittee for noncompliance with this section in accordance with IC 7.1-3-23.

SECTION 2. IC 7.1-3-23-26.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26.1. (a) A retailer permittee or dealer permittee who violates IC 7.1-3-1.5-13, IC 7.1-5-7-4, or IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have ~~his the permittee's~~ permit suspended, or be fined and have ~~his the permittee's~~ permit suspended, as determined by the commission; however, if the penalty imposed by the commission exceeds a fine and three (3) day suspension, the commission must issue written findings of fact and conclusions which show the necessity of the penalty. If the retailer or dealer permittee commits a subsequent violation of the provisions listed in this subsection within twelve (12) months of the first violation, the commission may fine the permittee, fine ~~him the permittee~~ and suspend ~~his the permittee's~~ permit, or revoke ~~his the permittee's~~ permit; however, if the penalty exceeds a fine and suspension of more than fifteen (15) days, the commission must issue written findings of fact and conclusions which show the necessity of the penalty.

(b) The holder of an employee permit who violates IC 7.1-5-7-4 or IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have ~~his the permittee's~~ permit suspended, be both fined and have ~~his the permittee's~~ permit suspended, or have ~~his the permittee's~~ permit revoked, as determined by the commission.

SECTION 3. IC 7.1-5-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. ~~(a)~~ Section 12 of this chapter does not prohibit the following:

- (1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:
 - (A) selling;
 - (B) furnishing, other than serving;
 - (C) consuming; or

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(D) otherwise dealing in;
alcoholic beverages.

(2) A person at least eighteen (18) years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment.

(3) A person at least nineteen (19) years of age but less than twenty-one (21) years of age who:

(A) has successfully completed ~~a~~ **an alcohol** server training program ~~approved by the commission before applying for an employee permit;~~ **certified under IC 7.1-3-1.5;** and

(B) serves alcoholic beverages in a dining area or family room of a restaurant or hotel:

(i) in the course of a person's employment as a waiter, waitress, or server; and

(ii) under the supervision of a person who is at least twenty-one (21) years of age, is present at the restaurant or hotel, and has successfully completed ~~a~~ **an alcohol** server training program ~~approved~~ **certified under IC 7.1-3-1.5** by the commission.

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender.

~~(b) The commission may adopt rules under IC 4-22-2 to:~~

~~(1) create a server training program;~~

~~(2) outsource the server training program and licensing; and~~

~~(3) establish fees under this section.~~

SECTION 4. [EFFECTIVE JULY 1, 2005] (a) As used in this SECTION, "commission" refers to the alcohol and tobacco commission established by IC 7.1-2-1-1.

(b) As used in this SECTION, "dealer permittee" has the meaning set forth in IC 7.1-3-1.5-2, as added by this act.

(c) As used in this SECTION, "program" has the meaning set forth in IC 7.1-3-1.5-3, as added by this act.

(d) As used in this SECTION, "retailer permittee" has the meaning set forth in IC 7.1-3-1.5-4, as added by this act.

(e) Notwithstanding IC 7.1-3-1.5-12, as added by this act, a person who is operating a program before July 1, 2005, may continue to operate the program without a certificate issued under IC 7.1-3-1.5, as added by this act, pending the processing of an application for a certificate under this SECTION.

(f) The person described in subsection (e) may submit to the commission an application for a certificate to operate a program

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under IC 7.1-3-1.5, as added by this act. To be entitled to continue operating without a certificate under subsection (e), the person must submit the application before March 1, 2006.

(g) The person described in subsection (e) shall cease operating a program if:

- (1) the person fails to submit an application within the time allowed under subsection (f); or
- (2) the commission notifies the person that the commission has rejected the application submitted by the person under this SECTION.

(h) Notwithstanding IC 7.1-3-1.5-13, as added by this act:

- (1) a retailer permittee or dealer permittee who is operating an establishment where alcoholic beverages are served or sold must ensure that each alcohol server completes a program certified under IC 7.1-3-1.5, as added by this act, not later than:

(A) January 1, 2008; or

(B) ninety (90) days after the date the alcohol server begins employment at the establishment;

whichever is later; and

- (2) a retailer permittee or dealer permittee must complete a program certified under IC 7.1-3-1.5, as added by this act, not later than:

(A) January 1, 2008; or

(B) ninety (90) days after the date the retailer permittee or dealer permittee is issued a retailer permit or dealer permit under IC 7.1-3;

whichever is later.

(i) This SECTION expires December 31, 2009.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a)

Notwithstanding IC 7.1-3-1.5, as added by this act, the alcohol and tobacco commission may initiate rulemaking to implement IC 7.1-3-1.5, as added by this act.

(b) This SECTION expires January 1, 2006.

SECTION 6. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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